THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.1345 OF 2006

Dt.27.1.2006

Between:

M.Venkateswarlu … Petitioner

And

The Chairman and Managing Director,

CPDC of A.P.Ltd, (A.P.Transco), Hyderabad

And 3 others. … Respondents

ORDER:

Petitioner questions the notice issued by the 3rd respondent in Lr.No.DEA-II/Hyd/DAT/22927/D.No.5429 dated 23.8.2005 as illegal and arbitrary and contrary to the provisions of the Electricity Act, 2003 and further direct the respondents to pass final assessment orders by following the procedure laid down in Section 126 of the said Act.

The petitioner is having service connection bearing No.14309 falling under category L.T.I. It is stated that the 3rd respondent inspected the petitioner's service connection on 17.5.2005 and issued the provisional assessment notice dated 23.8.2005 estimating the value of the energy pilferage at Rs.50,236/- on the ground that the petitioner is indulging in pilferage of energy and accordingly disconnected the said service connection. It is stated that the petitioner is asked to pay 50% of the said amount for obtaining restoration of power supply. It is stated that the petitioner has paid the sum of Rs.11,500/- and the power supply was restored.

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing on behalf of the respondents.

I am of the opinion that basing on the provisional assessment notice the service connection of the petitioner cannot be disconnected unless an opportunity is given to the petitioner to file objections and after considering the said objections final assessment order is passed by the respondents. There is no such power, while issuing provisional assessment notice, to forthwith stop or disconnect the electricity supply.

Having regard to the facts and circumstances of the case, the impugned notice is to be treated as show cause notice and the petitioner is directed to file objections within one week from the date of receipt of a copy of this order and on filing such objections the respondents may consider the same and pass appropriate final order under Section 126 of the Electricity Act, 2003. Till then, the 3rd respondent is directed not to disconnect the power supply to the petitioner's service connection No.14309. Obviously, any amount paid by the petitioner pursuant to the impugned notice will be liable to be adjusted against the amount to be finally assessed by the concerned authority.

The writ petition is accordingly disposed of. No costs.

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(V.ESWARAIAH, J.)

27.1.2006

kpr